

In The court of Appeals Division II

FILED  
COURT OF APPEALS  
DIVISION II  
2019 AUG -9 PM 12:51  
STATE OF WASHINGTON  
BY \_\_\_\_\_  
DEPUTY

In the personal restraint of Andrew Boyd

No. 13-1-03713-2

Andrew Boyd 382895  
CA-55-20  
Coyote Ridge Correction Center  
P.O. Box 769  
Connell, WA 99326

## Table of contents

### U.S. Sup

Miller v Alabama 567 U.S. 460 2012	pg. 1
Graham v Florida 560 U.S. 487 2010	pg. 2
Roper v Simmons 543 U.S. 55 569 2005	pg. 2

### State

State v Houston - Sconiers wn. 2d 39 p. 3d 409 413 2017	pg. 2
State v Odell 183 Wash. 2d 680 358 p. 3d 359 2015	pg. 3, 6
State v Law 154 Wash. 2d 85 110 p. 3d 717 2005	pg. 3
State v Hamlin 132 Wash. 2d 834, 840 940 p. 2d 633 1997	pg. 3, 4
State v Miller 185 Wash. 2d 111, 11p 371 p. 3d 528 530 2016	pg. 5

### R.C.W.

R.C.W. 9A.04.0340	pg. 4
R.C.W. 9A.04.055	pg. 8, 9

### Key

Petitioner, Defendant is Andrew Boyd

### Exhibit

Sentencing Transcripts Exhibit A

1 In The Court of Appeals Division II

2 In the personal restraint  
3 of Andrew James Boyd  
4 NO.

13-1-03713-2

7.8 motion for relief from  
Judgement and resentencing

6 Clerks action required

FILED  
COURT OF APPEALS  
DIVISION II  
2019 AUG -9 PM 12:51  
STATE OF WASHINGTON  
NY  
DEPUTY

7 Defendant moves this court pursuant to 7.8 motion for relief  
8 from judgement and for resentencing.

9 More specifically Defendant Andrew Boyd who was 18 years 36 days old  
10 at the time of his crime was given a 320 month sentence, asserts  
11 that the law has changed regarding the sentencing of youth and that  
12 change applies retroactively. As a result the defendants current sentence is  
13 unlawful and this motion is timely.

14 Defendant Andrew Boyd respectfully request that this court call for a response  
15 and set a hearing date on this motion.

16 The Washington. Arguement

17 The Washington State Supreme Court recently recognized that the law  
18 regarding the sentencing of youth has changed, Children are different Miller  
19 v Alabama 567 U.S 460 2012, that difference has Constitutional ramifications  
20 An offenders age is relevant to the eighth Amendment and so criminal

1 Procedure laws that fail to take defendants youthfulness into account at all  
2 would be flawed. *Graham v Florida* 560 U.S 48, 76 2010 U.S Const Amend. VIII.

3 *State v Houston-Scofield* Wn-2d 391 P.3d 409 413 2017, because of the recognition  
4 that children are different, sentencing courts are required to consider the attributes  
5 of youth when imposing a sentence and have full discretion to impose a sentence  
6 below the guidelines and even less than a mandatory sentencing enhancement  
7 otherwise required.

8 The Eighth Amendment requires a sentencing court to consider the mitigating  
9 qualities of youth even in adult court.

10 The United States Supreme Courts recent decision explicitly holds that the Eighth Amend.  
11 to the United States constitution compels us to recognize that children are different  
12 See eg *Miller* 132 S.Ct. at 2470, children are different *Graham* 560 U.S at 68-70  
13 differences between children and adults are constitutional in nature and implicate  
14 Eighth Amendment and sentencing practices. *Roper v Simmons* 543 U.S 55 569 20 2005.

15 Critically the Supreme court has also explained that the Eighth Amendment  
16 requires trial courts to consider the mitigating factors of youth and exercise  
17 discretion whenever a juvenile is sentenced see, eg *Miller* 132 S.Ct at 24  
18 68-72 listing reasons why certain mitigating factors had to be considered at the  
19 time of the child's initial sentencing. The Washington state supreme court  
20 stated that a sentencing court cannot avoid the Eighth Amendment

1 requirement to treat children differently with discretion and with consideration  
2 of mitigating factors at sentencing, because the defendant's sentencing did not comply  
3 with requirements of the Eight Amendment resentencing is required.

4 Odell also changed the law.

5 State v Odell 183 Wash 2d 680 358 P.3d 359 2015 announced a new rule that  
6 applies retroactively.

7 To determine whether state v Odell changes the law it is important to determine  
8 what the law was regarding whether youth was considered relevant to any  
9 mitigating circumstances prior to Odell. The Washington State Supreme Court  
10 explained the applicable law in state v Law 154 Wash. 2d 85 110 P.3d 717 2005.

11 Law involved the state's appeal from an exceptionally lenient sentence the  
12 Supreme Court reversed that sentence after comprehensively explaining the law  
13 regarding when exceptionally lenient sentences was and was not available  
14 focusing on the earlier decision in state v Hamlin 132 Wash. 2d 834, 840  
15 940 P.2d 633 1997. The law begins,

16 Our case law on this subject is well established. We have held that the  
17 S.R.A. establishes a two part test to determine if a sentencing departure is  
18 justified as a matter of law. In determining whether a factor legally supports  
19 departure from the standard range, this court employs a two part test. First a  
20 trial court may not base an exceptional sentence on factors necessarily considered

1 by the legislature in establishing the standard range sentence, Second the  
2 asserted aggravating or mitigating factor must be sufficiently substantial and  
3 compelling to distinguish the crime in question from other in the same  
4 category. 154 Wash. 2d 95 quoting Hamim 132 Wash. 2d at 840 law continued. Our  
5 cases have applied R.C.W. 9A.40.340 to prohibit exceptional sentences based on  
6 factors personal in nature to a particular defendant. 154 2d at 97. The Supreme Court  
7 then explained its holding in Hamim there the defendant was 18 years old with  
8 no previous police contacts when she took part in the armed robbery at a beauty  
9 salon. Hamim 132 Wash. 2d at 836-37 940 P.2d 633 the trial court, relying on the  
10 defendant's youth and lack of criminal history imposed an exceptional sentence  
11 of 31 months departing downwards from the standard range of 55-56 months. id  
12 at 837-38, 940 P.2d 633.

13 On review this court rejected the use of age as a mitigating factor. id at  
14 846, 940 P.2d 633 in doing so this court relied on R.C.W. 9A.40.340 in concluding  
15 that the age of the defendant does not relate to the crime or the previous record  
16 of the defendant. id at 847, 940 P.2d 633 thus we held that this personal factor  
17 was not substantial and compelling reason to impose an exceptional sentence  
18 154 Wash. 2d at 97-98 emphasis added the law concluded in sum this  
19 court has consistently interpreted the S.R.A. to require mitigating and  
20 aggravating factors to relate to the crime and distinguish id at 98. 4

1 youth was regarded as not related to the crime because neuroscience  
2 had not enlightened us about the developing brain even when, in did this  
3 nations courts were understandably cautious in applying that new science  
4 to the law.

5 The Washington state Supreme Court has previously held a significant change  
6 in the law requires that law not counsels understanding of the law on an  
7 unsettled question was changed. State Miller 185 Wash.2d 111, 116 371 P.3d 528  
8 530 2016.

9 The defendant Andrew Boyd makes a modest proposal the Washington state  
10 Supreme Courts explanation of its prior decisions controls law makes the holding  
11 of Hamim so clear and unequivocal that it bears repeating categorically speaking  
12 youth does not relate the crime and therefore does not diminish culpability to argue  
13 otherwise is to suggest that the Washington state Supreme Court is unreliable  
14 on its own case, Odell does not depart from law on the issue of whether the law  
15 at the time of Hamim, law and up to Odell does not depart, also held  
16 that youth was not categorically irrelevant to assessing culpability and punishment  
17 instead Odell holds that statutorily created mitigating circumstances have always  
18 permitted exceptional sentences to be imposed and upheld where a defendant  
19 makes a showing of diminished responsibility. However the legislature could  
20 not have considered the science of the developing brain before it 5

1 existed. Thus we decline to hold that the legislature could not have  
2 considered the relationship between age and culpability, when it  
3 made the S.R.A applicable to all defendants 18 years and older. Odell 183  
4 20 693.

5 Scientific advances in the study of adolescent brain development  
6 unavailable to the Hamlin court show that youth can significantly  
7 mitigate culpability, at 693 Odell. Continued.

8 Today we do have the benefit of these advances in the scientific literature  
9 thus we now know that age may very well mitigate a defendant's culpability  
10 even if the defendant is over the age of 18. id 695. Odell

11 A defendant who is more than 18 years old can be a mitigating  
12 factor justifying a sentence below the standard range if there is some  
13 evidence that the offender's youthfulness in fact impaired the capacity  
14 to appreciate the wrongfulness of the criminal conduct.

15 Chart from distinguishing youth, article found in the annals of the  
16 2008 New York academy of science march 2008 volume 1124, the year  
17 in cognitive neuro science 2008 pages 111-126.

18 1. Immaturity

19 2. Impetuosity, Peer Pressure, Spontaneous, Following friends

20 3. Failure to appreciate risk and consequences.



1 4. The Surrounding family and home environment

2 Petitioner Andrew Boyd's age directly relates to the crime which  
3 can be seen thru the attached May 2015 Sentencing transcripts  
4 The sentencing transcripts provide the following,

5 Sentencing transcripts page 14 line 7 thru page 17 line 25 Defense  
6 Counsel Michael Clark,

7 This was an interesting case because it was clear to me from  
8 the evidence that this was not planned out in any real sense of  
9 the word, There was a witness that heard some comments which  
10 seemed to indicate that it was a spontaneous incident and that  
11 one person cooked it up on the spot and the other person just  
12 went along, video evidence from the garage shows Andrew Boyd's co-  
13 defendant Jeremy Bennett enter and Andrew Boyd follow after it  
14 also shows Bennett approach the victim and following along later  
15 with subjection to peer pressure. Boyd followed Bennett.

16 The Petitioner does show thru his sentencing transcripts that his  
17 crime was random, not planned and subjected to peer pressure to go along  
18 with the robbery.

19 The evidence also shows that the Petitioner never had a stable  
20 home or family throughout his childhood.

1 Change in law

2 R.C.W's 9.94A and 9.94A.535 include,

3 Expanded the statutory mitigating factor for felony sentencing to  
4 include susceptibility to peer pressure and other factors related  
5 to youthfulness at the time of the offenses for all defendants not  
6 just defendants charged for offenses committed under the age of 18.

7 House committee amendments updated 4.12.19

8 The mitigating factor for adjusting a sentence is modified, a  
9 judge is allowed to impose a sentence below the standard range when  
10 he or she finds that the defendant is less culpable because of youthfulness  
11 at the time of the offense which is demonstrated by age, susceptibility  
12 to peer pressure lack of sophistication and maturity or other factors  
13 not shown in a fully developed adult, rather than when the judge  
14 finds that the defendant's age, lack of sophistication susceptibility  
15 to peer pressure or other factors relating to the defendant's youthfulness  
16 render the defendant less culpable than if the offense had been  
17 committed by a fully developed adult R.C.W 9.94A.535.

18 Conclusion

19 The defendant Andrew Boyd Respectfully ask this court to  
20 remand for a new sentencing hearing to explain the importance  
9

1 of youth and how youthfulness impacted the defendants actions when  
2 he became an accomplice in a random street robbery while walking  
3 home.

4 The defendant did not ask for an exceptional sentence or explain  
5 the importance of youth and crime at his original may 2015 sentencing  
6 hearing. See sentencing transcripts.

7 The defendant did not file a direct appeal due to the decision in  
8 state v odell being published months later and the amended R.C.W's  
9 9.94A and R.C.W 9.94A.535 years later.

10 The defendant prays that this court will remand for a new  
11 sentencing hearing.

12  
13  
14  
15  
16 Andrew Boyd 382895  
17 CA-55-20  
Coyote Ridge correction center  
18 P.O Box 769  
Connell, wa 99326  
19  
20

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25

IN THE SUPERIOR COURT OF THE STATE OF WASHINGTON  
IN AND FOR THE COUNTY OF PIERCE

---

STATE OF WASHINGTON,	)	
	)	
Plaintiff,	)	
	)	
vs.	)	No. 13-1-03713-2
	)	
ANDREW JAMES BOYD,	)	
	)	
Respondent.	)	

---

VERBATIM REPORT OF PROCEEDINGS  
[Sentencing]

---

May 13, 2015  
Honorable GAROLD E. JOHNSON  
Department No. 10  
Pierce County Superior Court

APPEARANCES

For the Plaintiff:	Mark Lindquist
	Bryce Nelson
	Deputy Prosecuting Attorneys
For the Defendant	Michael Steven Clark
	Attorney at Law
Also present:	Andrew Boyd

LESLIE J. THOMPSON, CCR  
OFFICIAL COURT REPORTER  
PIERCE COUNTY SUPERIOR COURT  
930 TACOMA AVE S., #334  
TACOMA, WA 98402  
(253) 798-2979

ORIGINAL

1 THE COURT: Counsel, when you're ready, please  
2 identify yourselves for the record.

3 MR. LINDQUIST: Mark Lindquist for the people.

4 Also present with me is deputy prosecutor Bryce  
5 Nelson, defense counsel Mr. Clark, and defendant  
6 Mr. Boyd, who is present in custody. Here this morning  
7 on your calendar for sentencing.

8 THE COURT: Very good.

9 When you're ready to proceed, go ahead.

10 MR. LINDQUIST: Thank you, Your Honor.

11 A lot of people in the community talked to me about  
12 this murder. The crime rattled the sense of security  
13 people have in their neighborhoods, especially in the  
14 Stadium District where this occurred.

15 Mr. Howse had a lot of friends, was well liked by his  
16 neighbors, and had a great relationship with his family.  
17 You'll be hearing from them soon.

18 You have a recommendation which we gave you Monday.  
19 The recommendation takes into account the seriousness and  
20 senselessness of this crime, the impact on the community  
21 and other factors, including mitigating factors.

22 As I said Monday, this plea of guilty to murder in  
23 the first degree provides justice, closure, and some  
24 certainty for the community.

25 When the Court is ready we'll bring up some members

1 of the family and some friends who would also like to  
2 address the Court, Your Honor.

3 THE COURT: Very good.

4 Would you like to hear from them first, Counsel?

5 MR. CLARK: Yes, Your Honor.

6 THE COURT: Does anyone wish to speak in of the  
7 family?

8 MR. LINDQUIST: Travis Howse, Mr. Howse's son.

9 THE COURT: Mr. Howse, come forward.

10 If I could have you provide your name, for the  
11 record.

12 MR. HOWSE: Travis Howse.

13 THE COURT: Do you have a cell?

14 MR. HOWSE: I have my statement.

15 THE COURT: You can't record is all.

16 MR. HOWSE: A lot of talk has occurred over the  
17 last couple weeks about the word "justice." And today I  
18 think we finally see a piece of that. A piece, not true  
19 justice, because in my mind that would be the death  
20 sentence.

21 Larry Howse was a man whose life was worth more than  
22 this man could ever amount to. He was a loving father,  
23 brother and husband. We all knew him for his signature  
24 smile that would light up a room.

25 My dad was an outdoorsman. We would go salmon

1 fishing, crabbing, and camping trips every chance we  
2 could growing up. He was my life coach, guiding every  
3 step, providing profound advice every bump in the road.

4 The smile I mentioned earlier was never bigger than  
5 the day he saw me graduate basic training. He was so  
6 proud of what I had accomplished, so happy for what the  
7 future held for me.

8 Unfortunately, the future held much darker events for  
9 him. That night his life was lost, a piece of mine was  
10 too. Nothing can ever bring him back.

11 All I can do is ask you, Judge Johnson, please give  
12 this man the maximum possible sentence. What has been  
13 recommended by the prosecution feels less like justice  
14 and more like a second crime.

15 Thank you, sir.

16 THE COURT: Thank you.

17 Who is next to speak?

18 MR. LINDQUIST: Your Honor, I think Julie  
19 Cryderman.

20 THE COURT: Ms. Cryderman.

21 Please state your name and spell your last name for  
22 the record.

23 MS. CRYDERMAN: Julie Cryderman,  
24 C-r-y-d-e-r-m-a-n.

25 THE COURT: What would you like to tell the

1 Court.

2 MS. CRYDERMAN: I'm going to skip some of this  
3 stuff, because I think I gave a copy of it, and Travis  
4 spoke very well.

5 I was just going to say when we were growing up we  
6 were taught to be respectful, to value freedom and hard  
7 work and work for the things that you want.

8 And it's these values that are shaken. I no longer  
9 feel safe or trust in my world. My life is angrier,  
10 quieter, dark without Larry.

11 And then I say, surprising how justice works. 18  
12 months ago there was a witness who stated Boyd had a gun  
13 on August 31st. But this week, due to time elapsing and  
14 street life that story has changed.

15 Boyd can be coming out of the parking garage after  
16 the murder placing something into his pants. Logic would  
17 say it was the gun. Justice says it could have been  
18 something else.

19 Boyd is very skilled with a gun. He shoots for the  
20 kill zone.

21 And I say Tacoma, your crime rate is very high.  
22 After good police work the justice system seems to return  
23 criminals to the streets quickly.

24 Bennett, the partner of the murder suspect, received  
25 28 years, and the probable shooter will only get 23 to



1 25?

2 Andrew Boyd is a predator. He waited for the garage  
3 door to open with a plan to commit robbery. Then he  
4 murdered my brother Larry in cold blood. He is a  
5 dangerous criminal at a very young age.

6 He is a liar, and he knows how to work the justice  
7 system. He has committed other crimes against Tacoma  
8 citizens. His terror stopped when he was arrested for  
9 the murder of my brother. Tacoma Police Department again  
10 did good work.

11 I just ask you, don't turn this animal out to prey on  
12 Tacoma in 23 to 25 years. He deserves the max.

13 Boyd must be locked away to protect the grandparents,  
14 parents and children of Tacoma. Boyd would kill your  
15 family if he had a chance.

16 I ask myself what is justice, and there is none.  
17 What has been taken can't be replaced. And I only hope  
18 this man is locked up so society is kept safe and this  
19 doesn't happen to another family.

20 Thank you.

21 THE COURT: Thank you, ma'am.

22 Next on the list is Ms. Howse.

23 MR. LINDQUIST: Yes. Melissa Howse.

24 MS. HOWSE: I'm reading this for Cooper, but my  
25 name is Melissa Howse.

1 THE COURT: Thank you.

2 MS. HOWSE: I can walk and talk, and I'm  
3 incredibly grateful for the life that God has gifted to  
4 me.

5 The heinous part of it -- everyone dies, everyone  
6 loses their parents. Boyd did, however, murder my father  
7 in an ultimate act of greed and selfishness.

8 At 52 my father was a few years in to an open, new  
9 life. He was consistently happy like I'd never seen  
10 before. I knew that the last part of his life would  
11 leave him dying a fulfilled man, a fulfilled father and  
12 human filled with love.

13 Because of Boyd's act of violence my father didn't  
14 get to do that; see his son fight to get sober and come  
15 out of darkness. He only saw the darkness.

16 My dad didn't get to travel and fish. Didn't get to  
17 spend the holidays and proudly see his son serving his  
18 country.

19 Mr. Boyd didn't hurt me. I'm alive and well and  
20 coming to terms with my father's death, as all of us have  
21 to.

22 What you did was rob the beautiful end to a life that  
23 needed one.

24 THE COURT: Thank you.

25 Who is next?

1 MR. LINDQUIST: Bailey Cryderman, Your Honor.

2 THE COURT: Thank you.

3 When you're ready, state your name, please.

4 MS. CYRDERMAN: Bailey Cryderman,  
5 C-r-y-d-e-r-m-a-n.

6 THE COURT: Very good. What would you like to  
7 tell the Court?

8 MS. CRYDERMAN: Larry Howse was my uncle.

9 I often ask why this happened. And I can't wrap my  
10 mind around how these men could kill my uncle. I have to  
11 come to the conclusion that terrible people do terrible  
12 things, and the fact that it doesn't make any sense to  
13 me, that I am not one of those terrible people.

14 Andrew Boyd took away my uncle, my friend, my mom's  
15 brother and my cousin's dad. Over what?

16 My family will never be whole again. I will never  
17 receive a text message reminding me of my son's birthday.  
18 I will never get to go on crazy adventures, and I will  
19 never get to laugh at any more of his cheesy jokes. He  
20 was such a fun guy. It's been almost two years and I  
21 still can't believe he is gone.

22 Boyd has lied and is a threat to society. At the  
23 sentencing of Jeremy Bennett I felt a sense of closure.  
24 He apologized to my family, admitted to his wrongdoing.  
25 Andrew Boyd has made me more angry, and I can say I have

1 nothing but hate for him. He is a lying thief that is  
2 blaming wrongdoings on his friend.

3 This is not his first crime, and if given his chance,  
4 not going to be his last. The public needs to be  
5 protected from this professional criminal.

6 Andrew Boyd is a terrible person. His family and  
7 this community should be ashamed of him.

8 To the city of Tacoma, I fear for you. I will never  
9 live in this city, and I assure you my family won't  
10 either. In 23 to 25 years this monster will once again  
11 roam your streets. He targeted my uncle over a car, a  
12 wallet and a watch. Who's to say it won't be your child,  
13 your friend or you next.

14 He is asking for 23 to 25 years in prison. He will  
15 be about 39 when he gets back into your community. I am  
16 asking that you protect yourselves and your families by  
17 not allowing this.

18 Jeremy Bennett received 28 years. And it will  
19 disgust me if he gets one day less because he has a good  
20 attorney and he stuck to his story.

21 I have nothing but gratitude for the Tacoma police  
22 for getting this man off the street. And it would be a  
23 joke to give him nothing less than the maximum sentence.  
24 Please correct this attorney and keep this degenerate  
25 human being for the same amount of time, if not longer

1           than his friend is.

2                   THE COURT: Thank you, ma'am.

3                   Mr. Howse, David Howse.

4                   MR. LINDQUIST: Your Honor, this is Dave Howse,  
5           the brother of Lawrence Howse.

6                   THE COURT: Very good.

7                   MR. HOWSE: My name is Dave Howse, and Larry was  
8           my little brother.

9                   He was a great father, brother, son, and a friend to  
10          many. He loved life. Was the first one to pitch in when  
11          anyone needed help. He was spontaneous and always ready  
12          for the next adventure. He loved anything to do with  
13          outdoors and his boat.

14                  His family, two sons and friends were his focus in  
15          life. He worked and played in the marine industry most  
16          of his life, where he was highly respected. He could fix  
17          almost anything and always had a project or was helping  
18          someone with theirs.

19                  I last talked to my brother Friday, August 30th,  
20          2013. He was out on the boat with his son and his  
21          friends crabbing, having a great time. He told me he  
22          would call my son, and Travis and him would come over for  
23          the barbecue.

24                  That Sunday morning I received a call from our  
25          brother Gary telling me Larry had been murdered the night

1 before. I didn't believe it. I contacted the Pierce  
2 County coroner, and he put me in touch with the detective  
3 on Larry's case that morning.

4 Then it sunk in. No more phone calls trading  
5 recipes, holidays, birthdays watching the kids become  
6 adults and helping them with their projects. Our family  
7 at that moment was broken and will never heal.

8 I will never be able to make any sense of this  
9 vicious crime. My brother was only going home after a  
10 day spent with family and friends, something most of us  
11 expect to do every day.

12 The defendant ambushed him, shot him twice, and left  
13 him to die on the floor of his parking garage for what,  
14 maybe 40 bucks, car keys to a car he didn't take, a  
15 wallet, a watch and a phone. I will never understand how  
16 someone could be that coldhearted. A total disregard for  
17 a human being.

18 Larry, he would have turned 56 two weeks from today.  
19 I will celebrate it by placing flowers on his grave. His  
20 number is still programmed into my phone. No, I haven't  
21 healed.

22 The defendant, he will get a second chance at life,  
23 one he didn't give my brother. I would hope he would use  
24 this chance to get his life in order and do good things  
25 for himself and the community. We will see.

1           Due to the vicious and predatory nature of this  
2 crime, I would urge the Court sentence the maximum.  
3 Nothing will bring my brother back. We will do  
4 everything we can to keep this from happening to someone  
5 else.

6           Furthermore, I would like to thank the Tacoma Police  
7 Department, especially Mr. Nasworthy, who worked  
8 tirelessly. He took the time to talk to me when I really  
9 needed it. They're heros.

10          The Howse family extends thanks to the prosecutor,  
11 Mr. Lindquist, Mr. Sheeran, Mr. Nelson, and all of their  
12 staff for the hard work put into this in the last 20  
13 months. They kept us informed and answered many more  
14 questions, I'm sure.

15          Thanks to the victim advocates Ms. Summer and  
16 Ms. Klein, being there for us and answering our  
17 questions. And a great thank you to Mr. Lou Cox, a great  
18 man and listener. You all dedicate your lives here to  
19 making this world a safer place, and you are appreciated.

20          Thank you for putting up with me and allowing this  
21 opportunity for me to address this Court. Thank you.

22                 THE COURT: Thank you, sir.

23                 Mr. Strong.

24                 MR. LINDQUIST: Your Honor, this is David  
25 Strong, if he wishes to address the Court.

1 MR. STRONG: Your Honor, I am David Strong. I  
2 was Larry's best friend over the last two and a half  
3 years.

4 I've seen him love his sons. I've sat when he would  
5 cry and worry about them and we would pray for them.

6 He was my neighbor. Now, because of Mr. Boyd I'd  
7 look when I enter my home.

8 Larry and I would walk down the street and he would  
9 say hi to everybody. He would pick up litter. He loved  
10 this neighborhood. And we are no longer safe.

11 But the hardest part is I no longer have my best  
12 friend, someone to talk to. August 31st we were supposed  
13 to hang out. And Sunday morning my friend's trooper  
14 Collin Pearson called me to tell me on my way to church  
15 that Larry was dead. My life has never been the same.

16 These young men have come through so much. And I  
17 believe the only justice that we can get for my friend is  
18 that Mr. Boyd receive the maximum sentence possible. It  
19 will not bring Larry back. It won't even give justice.  
20 He gets to plea bargain, and my friend didn't get to even  
21 plea for his life. So today I ask for the most justice  
22 that we can get.

23 Thank you.

24 THE COURT: Thank you, sir.

25 That's all I have on the list. Any others that wish



1 to speak to me? Does anyone else wish to speak on this  
2 matter? Just raise your hand if you do.

3 Thank you.

4 MR. LINDQUIST: Thank you, Your Honor. Nothing  
5 further.

6 THE COURT: Mr. Clark.

7 MR. CLARK: Your Honor, I've been involved with  
8 this case from very relatively early on. I really want  
9 to talk about three things. I want to talk about  
10 Andrew's background, how he ended up where we are and  
11 what I think the ultimate sentence should be.

12 Typically, when I represent someone charged with a  
13 very serious offense I interface with many, many of their  
14 friends and family and they're concerned about them.  
15 They want to know about the case. They want to provide  
16 support.

17 In Andrew's case, there was no one. There was a  
18 great grandmother and an elderly woman named Jacqueline  
19 who contacted me. Other than that, Andrew had and has no  
20 one.

21 Andrew grew up with his mother and his brother, and  
22 they lived in and out of shelters until he was 13 when he  
23 was reconnected with his father, Robert Brown.

24 He moved in with his father. His father abused  
25 substances, abused Andrew. And shortly thereafter, at

1 around age 14, Andrew was in foster care.

2 He lived with a foster family for three years, and  
3 there was conflict. Ultimately he moved into the  
4 Sylvester House.

5 It's moving to hear about Mr. Howse and his family.  
6 I think it's important to the Court to know that Andrew  
7 never had anything remotely like that. I'm not saying  
8 that as an excuse, but I do think that we learn how to  
9 relate to other people in our early ages.

10 Despite all of that, Andrew has no criminal  
11 convictions. He comes before the Court with a zero  
12 offender score.

13 This was an interesting case, because it was -- it  
14 was clear to me from the evidence that this was not  
15 planned out in any real sense of the word.

16 There was a witness that heard some comments which  
17 seemed to indicate that it was a spontaneous incident,  
18 and that one of the persons essentially cooked it up on  
19 the spot and the other person went along. That witness  
20 didn't hear any detailed discussion about what the plan  
21 was. It was simply, "Do you want to get him," something  
22 like that.

23 And the other person saying, "You want to;" now, you  
24 didn't hear that evidence because we terminated the trial  
25 early. But what that says to me is that although legally

1 both parties are equally culpable under felony murder  
2 law, there may be some difference in moral culpability.  
3 And that's ultimately for the Court to decide and for  
4 people at a higher pay grade than me to decide.

5 As the case progressed we had information that we  
6 thought would shed light on that and that may form the  
7 basis for a statutory defense to felony murder where one  
8 participant doesn't know the other participant is armed.  
9 We investigated that throughout the course of the  
10 proceedings.

11 Ultimately, that evidence didn't materialize for  
12 reasons -- for whatever Mr. Bennett's reasons were, he  
13 didn't want to speak to us about the case. Wasn't going  
14 to testify truthfully in our view as to what occurred.

15 But as the Court knows, oftentimes in litigation, as  
16 you're pursuing a particular theory as a party, that  
17 theory sometimes materializes with the evidence. It  
18 sometimes evaporates as you investigate.

19 That's why this case got to where it was on the eve  
20 of trial. It wasn't because Mr. Boyd wasn't willing to  
21 take responsibility for what he did.

22 But it was my obligation to thoroughly investigate  
23 all potential defenses and to advise him on all potential  
24 defenses.

25 After doing all that and looking at the evidence and

1 speaking with the state over the weekend, I knew that  
2 Mr. Boyd would take responsibility, and we negotiated  
3 something that I think accurately reflects the evidence  
4 as we viewed it coming into the trial.

5 It reflects Andrew's lack of criminal history, and  
6 reflects the fact that I don't think the state can say  
7 with certainty who they believe the shooter was. I don't  
8 believe it was Andrew. And that's where we're at.

9 And the Legislature has indicated through the  
10 guidelines that 240 months, the low end on this case, is  
11 the appropriate sentence for a person -- a appropriate  
12 sentence for a person that comes with no criminal history  
13 to this event.

14 And I think it's important to note that Andrew, there  
15 is no good time on that 20 years. So that is 20 years.  
16 Andrew will be 20 in July, I believe, so he will be  
17 almost 40. I know that I'm -- I was a lot different  
18 person at 40 than I was at 20. And I had a lot of  
19 advantages that Andrew didn't have as a youth.

20 So I'm asking the Court to impose 240 months; that's  
21 total confinement, not a single day off for good  
22 behavior. I think that that's a reasonable sentence in  
23 light of all the facts in this case.

24 And I don't have anything further.

25 THE COURT: Thank you, Mr. Clark.

1           Mr. Boyd, you are entitled to address this Court, to  
2           speak to this Court before sentence is imposed. You're  
3           not required to speak, but you're certainly entitled.

4           What would you like to tell me.

5           THE DEFENDANT: Your Honor, I -- I did not kill  
6           Lawrence Howse on that night. I did show improper  
7           actions before, during and after the murder.

8           I should have never went into the garage. I should  
9           have made a strong, good-faith effort to stop the murder,  
10          and I should have reported to the police after the  
11          murder. I did none of those things.

12          So I'm hoping Lawrence Howse's family and friends in  
13          time can learn to forgive me.

14          That's it. Thank you.

15          THE COURT: This case, defendant's conduct  
16          demonstrates probably at the minimum a callused  
17          indifference for human life.

18          The conduct, I think the word depraved comes to my  
19          mind. Total disregard for fellow human beings and the  
20          effect this conduct had on their families, not only on  
21          the decedent, but on their families; not only for the  
22          generations that are here, but for the generations that  
23          aren't.

24          It's not just a disregard for the law, frankly. The  
25          law, itself, only reflects our concern for each other.

1       That's not the reason you don't kill somebody. The best  
2       prediction for future conduct is past behavior; that's  
3       about the best we've got.

4       One of the duties of this Court is to protect society  
5       as much as I can under the statute, under the standard  
6       range of the Legislature the best I possibly can. The  
7       Legislature has spoken and said the minimum is 240, the  
8       maximum is 320 months. I don't see any reason to go  
9       outside those ranges. I have heard no argument that I  
10      should, and I don't see any factual support for it in any  
11      event.

12      Consequently, those are the bounds, those are the  
13      limits of this Court. But I do think it is incumbent  
14      upon this Court to protect society just as long as I  
15      possibly can, which is 320 months, and 36 months of  
16      community custody.

17      Beyond that, there will be restitution, proper  
18      amounts for crime victims, the LFOs we call them. \$200  
19      court costs, \$500 DAC recoupment. I realize that there's  
20      not a great deal of money, but there will be some  
21      opportunity to have some money in custody, and you should  
22      pay back for the attorney as well; restitution if  
23      applicable. Not much question there's at least some.  
24      Whatever that is will be ordered as well by future court  
25      order.

1           No contact with the victims at all. Not to say  
2           you're sorry, not in any way. They've heard enough from  
3           you.

4           Forfeiture of items in property. And of course, law  
5           abiding behavior on the community custody release.

6           MR. CLARK: Your Honor, Mr. Boyd has waived his  
7           presence at the restitution hearing, and to indicate that  
8           he's placed his initials on the Judgment and Sentence in  
9           the appropriate paragraph.

10          THE COURT: Thank you.

11          MR. NELSON: Your Honor, on the Judgment and  
12          Sentence I did strike out the voter rights, as Mr. Boyd  
13          did sign Addendum A at the time of the plea.

14          THE COURT: The law provides you the right to  
15          appeal decisions of this Court. It is a limited right in  
16          time. A notice of appeal must be filed within 30 days  
17          from the entry of the Judgment to be done today. If you  
18          don't file it within 30 days, you basically -- I didn't  
19          hear you.

20          THE DEFENDANT: Yes.

21          THE COURT: Have you had a chance to review that  
22          with your attorney?

23          THE DEFENDANT: Yes.

24          THE COURT: Any questions about it at all?

25          THE DEFENDANT: No.

May 13, 2015

C E R T I F I C A T E

STATE OF WASHINGTON

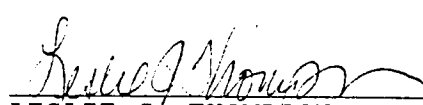
COUNTY OF PIERCE

) ss.  
)

I, Leslie J. Thompson, an official court reporter for  
Pierce County Superior Court, do hereby certify that the  
foregoing is a true and accurate transcript of the proceedings  
as taken by me in the above-entitled matter.

DATED:

11/8/17

  
LESLIE J. THOMPSON, CCR  
OFFICIAL COURT REPORTER  
CCR NO. 2690



1 THE COURT: Ms. Schramm, do you have the Warrant  
2 of Commitment there?

3 THE JUDICIAL ASSISTANT: Yes.

4 MR. NELSON: The Warrant of Commitment should be  
5 at the end of the J&S.

6 THE COURT: I have it here. I've signed the  
7 Judgment & Sentence, the Warrant of Commitment. You are  
8 remanded to the custody of the jail.

9 Court will be at recess.

10 MR. LINDQUIST: Thank you, Judge.

11 [Whereupon, the verbatim report of  
12 proceedings adjourned.]

13

14

15

16

17

18

19

20

21

22

23

24

25

FILED  
COURT OF APPEALS  
DIVISION II  
2019 AUG -9 PM 12:51  
STATE OF WASHINGTON  
BY \_\_\_\_\_  
DEPUTY

<u>Superior</u> Court of Washington	
For <u>Deirce</u> County	
<u>Andrew James Boyd</u> Petitioner/Plaintiff,	
vs.	
<u>Pike County prosecutor</u> Respondent/Defendant.	

No. 13-1-03713-2

**Motion and Declaration For Waiver of  
Civil Filing Fees and Surcharges  
(MTAF)**

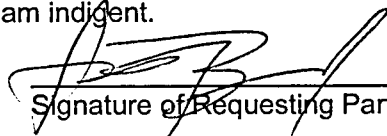
**I. Motion**

- 1.1 I am the ☒ petitioner/plaintiff [ ] respondent/defendant in this action.
- 1.2 I am asking for a waiver of all filing fees and surcharges.

**II. Basis for Motion**

- 2.1. GR 34 allows the court to waive "filing fees or surcharges the payment of which is a condition precedent to a litigant's ability to secure access to judicial relief" for a person who is indigent. As outlined below, I am indigent.

Dated: 8/5/19

  
\_\_\_\_\_  
Signature of Requesting Party  
Andrew Boyd  
\_\_\_\_\_  
Print or Type Name

**III. Declaration**

I declare that,

- 3.1 I cannot afford to meet my necessary household living expenses and pay the filing fees and surcharges imposed by the court. Please see the attached Financial Statement, which I incorporate as part of this declaration.

3.2 In addition to the information in the financial statement I would like the court to consider the following:

---

---

---

---

---

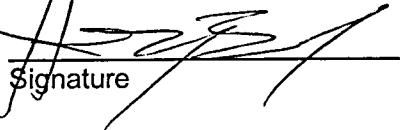
---

---

☐ (Check if applies.) I filed this motion by mail. I enclosed a self-addressed stamped envelope with the motion so that I can receive a copy of the order once it is signed.

I declare under penalty of perjury under the laws of the state of Washington that the foregoing is true and correct.

Signed at (city) Cornell, (state) wa on (date) 8/5/19.

  
Signature

Andrew Boyd  
Print or Type Name

<u>Superior</u> Court of Washington	
For <u>Pierce</u> County	
<u>Andrew Boyd</u>	Petitioner/Plaintiff,
	vs.
	Respondent/Defendant.

No. 137-03713-2

**Order Re Waiver of Civil Filing Fees and Surcharges**

☐ **Granted (ORPRFP)**

☐ **Denied (ORDYMT)**

☒ **Clerk's Action Required 3.1**

**I. Basis**

The court received the motion to waive filing fees and surcharges filed by or on behalf of the ☒ petitioner/plaintiff ☐ respondent/defendant.

**II. Findings**

The Court reviewed the motion and supporting declaration(s). Based on the declaration(s) and any relevant records and files, the Court finds:

- 2.1 ☐ The moving party is indigent based on the following: He or she:
- ☐ is represented by a qualified legal aid provider that screened and found the applicant eligible for free civil legal aid services; and/or
  - ☐ receives benefits from one or more needs-based, means-tested assistance programs; and/or
  - ☐ has household income at or below 125% of the federal poverty guideline; and/or
  - ☐ has household income above 125% of the federal poverty guideline but cannot meet basic household living expenses and pay the fees and/or surcharges; and/or
  - ☐ other: \_\_\_\_\_
- 2.2 ☐ The moving party is not indigent.

Case Name: In re of Andrew Boyd Case Number: 13-6-03713-2

Financial Statement (Attachment)			
1. My name is: <u>Andrew Boyd</u>			
2. <input checked="" type="checkbox"/> I provide support to people who live with me: How many? _____ Age(s): _____			
<b>3. My Monthly Income:</b>		<b>6. My Monthly Household Expenses:</b>	
Employed <input type="checkbox"/> Unemployed <input checked="" type="checkbox"/>		Rent/Mortgage:	\$ _____
Employer's Name:		Food/Household Supplies:	\$ _____
Gross pay per month (salary or hourly pay):	\$ _____	Utilities:	\$ _____
Take home pay per month:	\$ _____	Transportation:	\$ _____
<b>4. Other Sources of Income Per Month in my Household:</b>		Ordered Maintenance actually paid:	\$ _____
Source:	\$ _____	Ordered Child Support actually paid:	\$ _____
Source:	\$ _____	Clothing:	\$ _____
Source:	\$ _____	Child Care:	\$ _____
Source:	\$ _____	Education Expenses:	\$ _____
Sub-Total:		Insurance (car, health):	\$ _____
<input type="checkbox"/> I receive food stamps.		Medical Expenses:	\$ _____
<b>Total Income, lines 3 (take home pay) and 4:</b>		Sub-Total:	\$ _____
<b>5. My Household Assets:</b>		<b>7. My Other Monthly Household Expenses:</b>	
Cash on hand:	\$ _____		\$ _____
Checking Account Balance:	\$ <u>10.87</u>		\$ _____
Savings Account Balance:	\$ <u>11.78</u>		\$ _____
Auto #1 (Value less loan):	\$ _____		\$ _____
Auto #2 (Value less loan):	\$ _____	Sub-Total:	\$ _____
Home (Value less mortgage):	\$ _____	<b>8. My Other Debts with Monthly Payments:</b>	
Other:	\$ _____		\$ _____ /mo
Other:	\$ _____		\$ _____ /mo
Other:	\$ _____		\$ _____ /mo
Other:	\$ _____		\$ _____ /mo
Other:	\$ _____	Sub-Total:	\$ _____
<b>Total Household Assets:</b>		<b>Total Household Expenses and Debts, lines 6, 7, and 8:</b>	
\$ _____		\$ _____	
Date: <u>8/5/14</u>		Signature: <u>[Signature]</u>	

2.3    ☐    Other: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_.

### III. Order

Based on the findings the court orders:

3.1    ☐    The motion is granted, and

☐    all filing fees and surcharges the payment of which is a condition precedent to the moving party's ability to secure access to judicial relief are waived.

☐    other: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_.

3.2    ☐    The motion is denied.

3.3    If there is a material change in financial circumstances, the ruling can be revisited by the court or the moving party.

If the motion was granted and the court, upon review, later finds that either the petitioner or another responsible party to this proceeding has sufficient resources to pay the waived filing fees or surcharges, the Court may modify this order and require the moving party or another party to pay the filing fees and/or surcharges that have been waived by this order.

Dated: \_\_\_\_\_

\_\_\_\_\_  
**Judge/Commissioner**

Presented by:

\_\_\_\_\_  
Signature of Party or Lawyer/WSBA No.

\_\_\_\_\_  
Print or Type Name

\_\_\_\_\_  
Date

04/10/2019 10:30

Department of Corrections

Page 1 Of 2

AASIMPSON

COYOTE RIDGE CORRECTIONS CENTER

OTRTASTA

## T R U S T   A C C O U N T   S T A T E M E N T

10.2.1.3

DOC#: 0000382895

Name: **BOYD, ANDREW JAMES**

DOB:

07/25/1995

LOCATION: R01-125-CA552U

ACCOUNT BALANCES Total: 58.29 CURRENT: 43.29 HOLD: 15.00

03/01/2019 04/10/2019

SUB ACCOUNT	START BALANCE	END BALANCE
SPENDABLE BAL	10.87	31.51
SAVINGS BALANCE	5.78	11.78
WORK RELEASE SAVINGS	0.00	0.00
EDUCATION ACCOUNT	0.00	0.00
MEDICAL ACCOUNT	0.00	0.00
POSTAGE ACCOUNT	0.00	0.00
COMM SERV REV FUND ACCOUNT	0.00	0.00

## DEBTS AND OBLIGATIONS

TYPE	PAYABLE	INFO NUMBER	AMOUNT OWING	AMOUNT PAID	WRITE OFF AMT.
COI	COST OF INCARCERATION	05192015	UNLIMITED	0.00	0.00
SPOSD	SAPOS POSTAGE DEBT	05222015	0.00	5.50	0.00
EL	ESCORTED LEAVE	05192015	UNLIMITED	0.00	0.00
HYGA	INMATE STORE DEBT	07082015	0.00	2.12	0.00
HYGA	INMATE STORE DEBT	05222015	0.00	18.72	0.00
TVD	TV CABLE FEE DEBT	07112015	0.00	2.00	0.00
CVCS	CRIME VICTIM COMPENSATION/07112000	05192015	UNLIMITED	6.50	0.00
CVC	CRIME VICTIM COMPENSATION	05192015	UNLIMITED	88.98	0.00
COIS	COST OF INCARCERATION /07112000	05192015	UNLIMITED	22.00	0.00
SPOSD	SAPOS POSTAGE DEBT	07082015	0.00	1.10	0.00
LFO	LEGAL FINANCIAL OBLIGATIONS	20150603	UNLIMITED	26.18	0.00

## TRANSACTION DESCRIPTIONS --

## SPENDABLE BAL SUB-ACCOUNT

DATE	TYPE	TRANSACTION DESCRIPTION	TRANSACTION AMT	BALANCE
03/09/2019	TV	I05 - TV CABLE FEE	( 0.50)	10.37
03/18/2019	WU_TXN	WUINTERF: CALLIE\MORGAN, 10419 S WILLOW AVE, FRESNO, CA, 93725, 206451	10.00	20.37
03/18/2019	DED	Deductions-LFO-20150603 D D	( 2.00)	18.37
03/18/2019	DED	Deductions-CVCS-05192015 D D	( 0.50)	17.87
03/18/2019	DED	Deductions-SAV-10162018 D D	( 1.00)	16.87
03/18/2019	DED	Deductions-COIS-05192015 D D	( 2.00)	14.87
03/19/2019	CRS	CRS SAL ORD #10465445	( 11.35)	3.52
03/26/2019	WU_TXN	WUINTERF: CALLIE\MORGAN, 10419 S WILLOW AVE, FRESNO, CA, 93725, 206451	5.00	8.52
04/05/2019	WU_TXN	WUINTERF: JESSICA\WILLIAMS, 508 S 7TH ST # 108, TACOMA, WA, 98402, 206	50.00	58.52
04/05/2019	DED	Deductions-LFO-20150603 D D	( 10.00)	48.52
04/05/2019	DED	Deductions-CVCS-05192015 D D	( 2.50)	46.02
04/05/2019	DED	Deductions-SAV-10162018 D D	( 5.00)	41.02

FILED  
COURT OF APPEALS  
DIVISION II  
2019 AUG -9 PM 12:52  
STATE OF WASHINGTON  
DEPUTY

AASIMPSON

COYOTE RIDGE CORRECTIONS CENTER

OTRTASTA

## T R U S T   A C C O U N T   S T A T E M E N T

10.2.1.3

DOC#: 0000382895      Name: BOYD, ANDREW JAMES

DOB: 07/25/1995

LOCATION: R01-125-CA552U

DATE	TYPE	TRANSACTION DESCRIPTION	TRANSACTION AMT	BALANCE
04/05/2019	DED	Deductions-COIS-05192015 D D	( 10.00)	31.02
04/09/2019	WTS	WTS MSC 2ND QTR 4/9/19	( 7.00)	24.02
04/10/2019	C3_TXN	GPINTERF: Class III Gratuity, TXN_DATE 04/10/2019, NET_AMOUNT 788	7.88	31.90
04/10/2019	DED	Deductions-CVC-05192015 D D	( 0.39)	31.51

## TRANSACTION DESCRIPTIONS --

## SAVINGS BALANCE SUB-ACCOUNT

DATE	TYPE	TRANSACTION DESCRIPTION	TRANSACTION AMT	BALANCE
03/18/2019	DED	Deductions-SAV-10162018 D D	1.00	6.78
04/05/2019	DED	Deductions-SAV-10162018 D D	5.00	11.78

## TRANSACTION DESCRIPTIONS --

WORK RELEASE SUB-ACCOUNT  
SAVINGS

DATE	TYPE	TRANSACTION DESCRIPTION	TRANSACTION AMT	BALANCE
		TRANSACTION DESCRIPTIONS --	EDUCATION ACCOUNT SUB-ACCOUNT	

DATE	TYPE	TRANSACTION DESCRIPTION	TRANSACTION AMT	BALANCE
		TRANSACTION DESCRIPTIONS --	MEDICAL ACCOUNT SUB-ACCOUNT	

DATE	TYPE	TRANSACTION DESCRIPTION	TRANSACTION AMT	BALANCE
		TRANSACTION DESCRIPTIONS --	POSTAGE ACCOUNT SUB-ACCOUNT	

DATE	TYPE	TRANSACTION DESCRIPTION	TRANSACTION AMT	BALANCE
		TRANSACTION DESCRIPTIONS --	COMM SERV REV SUB-ACCOUNT FUND ACCOUNT	

DATE	TYPE	TRANSACTION DESCRIPTION	TRANSACTION AMT	BALANCE
------	------	-------------------------	-----------------	---------